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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

CITIZENS OF HUMANITY, LLC,

Plaintiff and Appellant,

v.

DANIELLE ELBAZ et al.,

Defendants and Respondents.

B263829

(Los Angeles County
Super. Ct. No. BC412629)

APPEAL from a judgment of the Superior Court of Los Angeles County. Susan Bryant-Deason, Judge. Affirmed.

Browne George Ross, Peter W. Ross, Benjamin D. Scheibe; Law Offices of Gary Freedman, and Gary Freedman for Plaintiff and Appellant.

Law Offices of Steven Soloway and Steven Soloway for Defendants and Respondents.

Citizens of Humanity, LLC (COH) appeals from a judgment after remand by this court, arguing that our disposition required the trial court to conduct a new trial on damages. We disagree and affirm.

In *Citizens of Humanity, LLC v. Danemar, S.A., et al.* (Oct. 25, 2012, B224966) [nonpub. opn.] (*Citizens I*), we reversed a judgment and cost award in favor of Marc and Danielle Elbaz on COH's claim for breach of contract. In January 2008, COH entered into a two-year agreement with Danemar, S.A. (Danemar), and its owners, the Elbazes, to be the exclusive distributor of COH jeans and clothing in Spain and Portugal. Both Elbazes signed the agreement as individuals in addition to Marc Elbaz's signature on behalf of Danemar. COH subsequently sued Danemar and the Elbazes for breach of the contract, alleging they had not purchased the specified minimum number of units in 2008 and 2009. Danemar filed a cross-complaint, also alleging breach of contract. A jury found that Danemar, but not the Elbazes, breached the agreement, and awarded COH \$47,680 in damages for breach of contract. (The jury also awarded Danemar \$30,677 on its cross-complaint, which is not an issue in this appeal.) The trial court denied COH's motion for new trial, which argued that the damages awarded by the jury were inadequate, and entered judgment. COH appealed.

We concluded there was insufficient evidence that the Elbazes were not parties to the agreement, and remanded to the trial court to vacate the judgment in favor of the Elbazes on the breach of contract claim. As to COH's motion for new trial regarding damages, we quoted the trial court's ruling denying the motion, and stated that the trial court had been in the better position to evaluate damages based on the evidence at trial. We concluded: "[T]he appropriate disposition is to remand this matter to the trial court with instructions to vacate the judgment and \$700 cost award in favor of the Elbazes on the complaint." (*Citizens I, supra*, B224966 at p. 13.) Our disposition read: "The judgment and cost award in favor of Marc and Danielle Elbaz on Citizens of Humanity's complaint for breach of contract is reversed. In all other respects, the judgment is affirmed," and we ordered the parties to bear their own costs on appeal. (*Id.* at p. 21.)

On remand following our decision, COH argued that a retrial was necessary to determine the amount of damages against the Elbazes, so that COH could introduce evidence that the Elbazes were liable for what COH claimed was “the full amount of [COH’s] damages” (at trial, COH had sought \$731,960.64 in lost profits). (*Citizens I, supra*, B224966 at p. 11.) The Elbazes opposed, arguing that our appellate opinion had already concluded that the jury’s damages award was supported by evidence in the record. The trial court entered a first amended judgment stating: “Defendants Danemar, S.A., Marc Elbaz, and Danielle Elbaz must pay plaintiff Citizens of Humanity, LLC \$47,680.00 and costs in the amount of \$5,817.00.”

COH argues that our previous opinion required the trial court to conduct a new trial on damages. COH points to the section in which we rejected the argument that the damages award was supported by insufficient evidence. That section heading reads: “2. *Remand for determination as to damages.*” (*Citizens I, supra*, B224966 at p. 11.) COH also argues that the possibility that the Elbazes might be liable for damages in a different amount requires a new trial on remand.

We review de novo whether the trial court correctly interpreted our opinion, construing “[t]he disposition . . . according to the wording of its directions, as read with the appellate opinion as a whole.” (*Ducoing Management, Inc. v. Superior Court* (2015) 234 Cal.App.4th 306, 313 (*Ducoing*).) We reject COH’s arguments.

“The disposition constitutes the rendition of the judgment of appeal, and . . . ‘must be distinguished from the appellate court’s “opinion” in general,’ ” which discusses the procedural history, facts, and applicable law. (*Ducoing, supra*, 234 Cal.App.4th at p. 312.) We have “the authority in the disposition to ‘affirm, reverse, or modify any judgment or order appealed from, and may direct the proper judgment or order to be entered, or direct a new trial or further proceedings to be had.’ (Code Civ. Pro[c.], § 43.) [¶] A disposition is not intended to be a riddle, and the directions in the dispositional language, as conveyed by the remittitur, are to be followed by the trial court on remand.” (*Ducoing, supra*, 234 Cal.App.4th at p. 313.)

Our disposition read: “The judgment and cost award in favor of Marc and Danielle Elbaz on Citizens of Humanity’s complaint for breach of contract is reversed. In all other respects, the judgment is affirmed.” (*Citizens I, supra*, B224966 at p. 21.)

The disposition does not order a new trial on damages, and nothing in the opinion requires a new trial on remand. The section heading COH relies on does not require a new trial, and in the section itself we rejected COH’s argument that insufficient evidence supported the jury’s damages award. We quoted the trial court’s order denying a new trial in concluding that the trial court was in the best position to determine the question of adequacy of damages. The substance of that section is inconsistent with a remand for a new trial.

We also reject COH’s argument that a new trial on damages was required to determine a damages amount for the Elbazes different from the amount awarded against Danemar. The record before us contains a general verdict form and special findings, as reflected in the judgment. That form instructed the jury to complete the immediately following section awarding damages “only if you find in favor of COH against Danemar and/or Marc Elbaz and/or Danielle Elbaz.” The jury found only Danemar liable, and in the next section, the jury filled in the blank as follows: “2. We award COH the following damages: \$47,680.00.” The verdict form and special findings directed the jury to make a single damages award to COH, even if the jury found “in favor of COH against Danemar [and] Marc Elbaz [and] Danielle Elbaz.” Nothing in the record demonstrates that COH requested that the jury calculate a separate, different award against the Elbazes in the event the jury found them liable.

“A petition for rehearing is the correct remedy to address material inaccuracies or omissions in a disposition.” (*Ducoing, supra*, 234 Cal.App.4th at p. 314.) COH did not file a petition for rehearing regarding our 2012 opinion to request clarification of our disposition, which in any event “means what it says.” (*Id.* at p. 317.) The disposition did not require a new trial regarding damages on remand.

DISPOSITION

The judgment is affirmed. Marc Elbaz and Danielle Elbaz are awarded their costs on appeal.

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ROTHSCHILD, P. J.

We concur:

CHANEY, J.

LUI, J.